

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI,)	No. ED95689
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	
RODNEY HARVEY,)	Hon. Michael P. David
)	
Appellant.)	FILED: September 20, 2011

Rodney Harvey appeals from the judgment of the trial court after a bench trial in which the trial court convicted Harvey of the felonies of robbery in the first degree (“Count I”), armed criminal action (“Count II”), unlawful possession of a firearm (“Count III”), and possession of a controlled substance (Count IV). Harvey contends that his waiver of the right to a jury trial was not knowingly, intelligently, and voluntarily made, and that the trial court plainly erred in entering its written sentence and judgment on Count IV.

AFFIRMED IN PART AND MODIFIED IN PART.

DIVISION ONE HOLDS:

(1) The record reflects that Harvey knowingly, intelligently, and voluntarily waived his right to a jury trial, and that the waiver appears on the record with “unmistakable clarity.” The trial court did not improperly induce Harvey into waiving his right to a jury trial.

(2) The trial court plainly erred in entering a written sentence and judgment on Count IV of a term of thirty years’ imprisonment to run concurrently with the sentences on Counts I, II, and III. The trial court’s written sentence and judgment on Count IV differed materially from its oral pronouncement of sentence, where it sentenced Harvey to a term of fifteen years’ imprisonment to run concurrently with the sentences on Counts I, II, and III.

Opinion by: Clifford H. Ahrens, Presiding Judge
M. Gaertner Jr., J., concur.

Roy L. Richter, J. and Gary

Attorney for Appellant: Andrew E. Zleit

Attorney for Respondent: Chris Koster

<p style="text-align:center">THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
